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Filing date: **08/15/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Lightforce U.S.A., Inc. DBA Nightforce Optics, Inc.		
Entity	Corporation	Citizenship	Washington
Address	336 Hazen Lane Orofino, ID 83544 UNITED STATES		

Correspondence information	Glenn D. Bellamy Attorney of Record Wood Herron & Evans, LLP 2700 Carew Tower 441 Vine Street Cincinnati, OH 45202-2917 UNITED STATES usptodock@whe-law.com, gbellamy@whe-law.com Phone:513-241-2324
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Registration Subject to Cancellation

Registration No	3232587	Registration date	04/24/2007
Registrant	Malcolm & Co. LLC 1412 Broadway, Suite 2300 New York, NY 10018 UNITED STATES		

Goods/Services Subject to Cancellation

Class 009. First Use: 2005/07/22 First Use In Commerce: 2005/07/22 All goods and services in the class are cancelled, namely: UNIVERSAL REMOTE CONTROL FOR ELECTRONIC COMPONENTS, NAMELY TV, VCR, DVD, CD, AND SATELLITE RECEIVER; BINOCULARS WITH BUILT-IN DIGITAL CAMERA; AND LAPTOP COMPUTER ACCESSORIES HARDWARE KIT, NAMELY-- MOUSE, EARPHONES, LED LIGHT, LAN (LOCAL AREA NETWORK) CONNECTOR CABLE AND A CASE
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Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	PetitionForCancellation.pdf (5 pages)(89570 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Glenn D. Bellamy/
Name	Glenn D. Bellamy
Date	08/15/2012

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Lightforce U.S.A., Inc. DBA Nightforce)	
Optics, Inc.,)	
)	Cancellation No. _____
Petitioner,)	
v.)	Registration No.: 3,232,587
)	Registered: April 24, 2007
Malcolm & Co. LLC,)	
)	
Registrant.)	

Commissioner for Trademarks
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

PETITION FOR CANCELLATION

Petitioner, Lightforce U.S.A., Inc. DBA Nightforce Optics, Inc., a Washington corporation, located and doing business at 336 Hazen Lane, Orofino, Idaho 83544 ("Petitioner") believes that it is and will continue to be damaged by the registration of the mark shown in Registration No. 3,232,587 for the trademark VELOCITY (and Design) for "universal remote control for electronic components, namely TV, VCR, DVD, CD, and satellite receiver; binoculars with built-in digital camera; and laptop computer accessories hardware kit, namely-- mouse, earphones, LED light, LAN (local area network) connector cable and a case," claiming first use anywhere and in commerce on July 22, 2005, and hereby petitions to cancel same.

As grounds therefor, Petitioner alleges that:

1. Petitioner is using the mark VELOCITY for a “feature of an optical lens scope, namely, a reticle,” in International Class 9.

2. Petitioner currently owns pending application Serial No. 85/457,447, filed October 27, 2011, for the VELOCITY mark, seeking to register the mark for the goods set forth above in paragraph 1.

3. Upon information and belief, Malcolm & Co. LLC, a New York limited liability company, located at 1412 Broadway, Suite 2300, New York, New York 10018, was the last listed owner of Registration No. 3,232,587 for the trademark VELOCITY (and Design) as shown:



for use in connection with “universal remote control for electronic components, namely TV, VCR, DVD, CD, and satellite receiver; binoculars with built-in digital camera; and laptop computer accessories hardware kit, namely-- mouse, earphones, LED light, LAN (local area network) connector cable and a case,” in International Class 9.

4. Registration No. 3,232,587 has been cited as the basis for refusal of Petitioner’s aforementioned Application Serial No. 85/457,447.

5. Upon information and belief resulting from diligent investigation, Registrant has abandoned its rights and interests in said registered mark in the United States by discontinued use of said mark and secession of business with no intent to resume said use of the trademark VELOCITY.

6. Continuation of Registration No. 3,232,587 on the Principal Register of the United States Patent and Trademark Office has damaged and will continue to damage Petitioner. Damage to Petitioner is evidenced by the fact that the registration has been cited as the basis for refusal of Petitioner's aforementioned Application Serial No. 85/457,447.

7. Based on the foregoing, Registration No. 3,232,587 is causing and will continue to cause injury and damage to Petitioner.

WHEREFORE, Petitioner believes that it is damaged by Registration No. 3,232,587 and respectfully petitions for cancellation thereof.

WHEREFORE, Petitioner, Retail Royalty Company prays that said Reg. No. 3,232,587 be cancelled.

Respectfully submitted,

Dated: August 15, 2012

/Glenn D. Bellamy/
Glenn D. Bellamy
WOOD, HERRON & EVANS, L.L.P.
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Attorneys for Petitioner
Lightforce U.S.A., Inc. DBA Nightforce
Optics, Inc.

CERTIFICATE OF TRANSMISSION AND SERVICE

I hereby certify that this correspondence is being transmitted electronically to the United States Patent and Trademark Office, Trademark Trial and Appeal Board on the date shown below. I hereby further certify that this correspondence is being served on counsel of record for the Registrant via Certified U.S Mail, postage prepaid, return receipt requested:

I. Morley Drucker
Fulwider Patton Lee & Utecht LLP
6060 Center Drive, 10th Floor
Los Angeles, CA 90045

Date: August 15, 2012

/Glenn D. Bellamy/
Glenn D. Bellamy

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **PETITION FOR CANCELLATION** was served by e-file copy and by first class mail, postage prepaid upon Stephen J. Strauss, Fulwider Patton LLP, 6060 Center Drive, Tenth Floor, Los Angeles, CA 90045, Attorneys for Petitioner, this _____ day of February, 2008.

Dated: August 15, 2012

Sarah Otte Graber, Esq.
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